

**MINUTES  
of the  
SECOND MEETING  
of the  
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**July 22, 2013  
Science Rotunda, University of New Mexico**

**July 23, 2013  
Metropolitan Detention Center  
Albuquerque**

The second meeting of the Courts, Corrections and Justice Committee was called to order by Representative Gail Chasey, co-chair, on July 22, 2013 at 9:50 a.m. in the Science Rotunda of the University of New Mexico.

**Present**

Rep. Gail Chasey, Co-Chair  
Sen. Richard C. Martinez, Co-Chair  
Rep. Eliseo Lee Alcon  
Sen. Joseph Cervantes  
Rep. Yvette Herrell  
Rep. Emily Kane (7/23)  
Sen. Linda M. Lopez  
Rep. Georgene Louis  
Sen. Cisco McSorley  
Rep. Jane E. Powdrell-Culbert (7/23)  
Rep. William "Bill" R. Rehm  
Sen. Sander Rue  
Rep. Mimi Stewart  
Sen. Lisa A. Torracio

**Absent**

Rep. Zachary J. Cook

**Advisory Members**

Rep. Phillip M. Archuleta  
Sen. Jacob R. Candelaria  
Rep. Kelly K. Fajardo  
Rep. Miguel P. Garcia  
Sen. Daniel A. Ivey-Soto (7/22)  
Rep. Antonio "Moe" Maestas  
Sen. Bill B. O'Neill (7/22)  
Rep. Paul A. Pacheco  
Sen. John Pinto  
Rep. Patricia Roybal Caballero  
Rep. Sheryl Williams Stapleton

Sen. Craig W. Brandt  
Rep. Cathrynn N. Brown  
Rep. Brian F. Egolf, Jr.  
Sen. William H. Payne  
Sen. Michael S. Sanchez

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Douglas Carver, Legislative Council Service (LCS)  
Monica Ewing, LCS  
Cassandra Jones, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

**Monday, July 22**

Representative Chasey welcomed the committee and the public in attendance. Members of the committee and staff introduced themselves.

**Welcoming Remarks**

David Herring, dean, University of New Mexico (UNM) School of Law, welcomed the committee members. He stated that he looks forward to working with the committee on issues that are important to New Mexico.

**New Mexico Results First**

Charles Sallee, deputy director, Legislative Finance Committee (LFC), told the committee that the LFC has been working with the Pew-MacArthur Results First Initiative for approximately two years. The relationship began when the LFC had a hearing on early childhood education. LFC staff did research and contacted Dr. Gary VanLandingham, director, Pew-MacArthur Results First Initiative, to discuss his cost-benefit model. The model allows those who use it to analyze the cost of social issues, such as adult and juvenile crime, child abuse and substance abuse. The LFC has been able to work with the Pew-MacArthur Results First Initiative with New Mexico-specific data. Mr. Sallee presented the committee with the lifetime total benefits of selected outcomes in New Mexico based on the Results First model. Avoiding a reconviction has a lifetime total benefit of more than \$121,000. Avoiding one case of child abuse or neglect has a lifetime total benefit of more than \$99,000. Preventing a low-income child from getting involved in crime has a lifetime benefit of more than \$84,000, and preventing a case of drug dependence or abuse has a lifetime total benefit of almost \$46,000. Mr. Sallee told the committee that the LFC is continuing to inventory which evidence-based programs are being implemented by the state and trying to use the best research available to estimate outcomes of programs based on New Mexico-specific data. He told the committee that analysis has shown that intensive supervision programs do not work unless they are coupled with treatment. Mr. Sallee emphasized that the Results First method does not only account for cost, but also for positive outcomes.

Mr. Sallee discussed costs associated with juvenile crime. In fiscal year (FY) 2012, the average cost per day for a juvenile justice facility in New Mexico was \$366.65 per person. State supervision costs for a person in the juvenile justice system were \$7.28 per day. There are a number of programs that address juvenile crime in the New Mexico Results First model, including functional family therapy (FFT), aggression replacement training and multi-dimensional foster care. Mr. Sallee told the committee that FFT is a structured, family-based intervention that uses a multi-step approach to enhance protective factors and reduce risk factors in the family. FFT was discontinued by the Children, Youth and Families Department (CYFD) in 2008. Analysis indicates that FFT will have a positive return. FFT benefits per participant are over \$40,000, which greatly outweigh the cost of the program. Mr. Sallee told the committee that in many cases, it takes years to realize a return on investment.

Mr. Sallee discussed child welfare and education programs. "Alternative response" is a system of responding to referrals to the Protective Services Division of the CYFD that is an alternative to a traditional investigation. If there are no imminent concerns about a child's safety, the alternative response method conducts a family assessment with the goal of engaging a family to determine strengths and needs and plan for the future. In 2011, an LFC evaluation recommended that the CYFD adopt the Alternative Response program. LFC analysis indicated that the Alternative Response program would yield a benefit valued at \$1,028 per person to participants, taxpayers and other beneficiaries, while costing only \$95.00 per person. Benefits of the program include crime reduction, increased earnings of participants, avoided health care costs, reduction in child abuse and reduction in out-of-home placements.

Mr. Sallee told the committee that research allows one to see what works before implementing programs. He stressed the importance of monitoring the ongoing performance of programs to make sure that the programs are maintained and of conducting periodic evaluations of programs. He told the committee that New Mexico's Results First model should be incorporated into budget decisions.

Dr. VanLandingham told the committee that all states are facing challenges. Most states have seen a 20% reduction in their general funds. States are dealing with serious issues with fewer resources than they have had in the past. He told the committee that the best way to deal with diminished resources is to use evidence to target how money is spent. He stressed the importance of investing in programs that have more positive outcomes for a lower cost.

Dr. VanLandingham told the committee that the Results First approach uses the best national research to identify what works. It predicts the impact based on state-specific data and calculates long-term costs and benefits. The Results First model focuses on three key questions: 1) what does it cost to achieve a goal?; 2) what is achieving that goal worth?; and 3) how do alternative ways to achieve that goal compare as investments? The model analyzes taxpayer costs, such as police, public defenders and courts, as well as societal costs, such as lost wages and pain suffered by crime victims. These costs are estimated based on medical records, insurance claims and court judgments. Dr. VanLandingham discussed the costs of FFT in

Washington State, \$3,190, versus the calculated benefits, \$37,739. Dr. VanLandingham discussed certain criminal justice programs in terms of their costs and benefits based on the Washington data. Intensive supervision has a long-term benefit of minus \$578, while a mental health court has a long-term benefit of \$20,424. He also discussed juvenile programs, such as aggression-replacement training and "Scared Straight".

Dr. VanLandingham told the committee that Results First can be used to analyze many areas, such as child welfare, education, prevention and public health. Services provided by Results First include the Results First software, staff training and ongoing technical assistance. Additional services include help interpreting results, compiling and sharing lessons learned with participating states and expanding and updating the model. All services are provided free of charge. Washington has used this approach for more than 15 years to help make budget decisions and has achieved better outcomes at lower costs. The Washington crime rate dropped, and the state has achieved \$2.7 billion in long-term benefits as a result. Since 1990, juvenile crime has seen a 49% reduction in the United States. Washington has seen a 67% reduction in juvenile crime over the same time period. Other states have also seen very positive results using the Results First model. Mississippi is using the model to re-energize the state's performance budgeting system and to assess criminal justice and education programs. While using the model, Iowa found its domestic violence treatment program to be ineffective and was able to replace it with a program that has a higher return on investment. Dr. VanLandingham told the committee that utilization of the model can improve government by using evidence, ensuring program quality and tracking results.

Dr. Jon Courtney, program evaluator, LFC, referred the committee to a handout detailing evidence-based programs to reduce recidivism and improve public safety in adult corrections. He told the committee that costs related to offenders who recidivate are substantial and result in general expenses to taxpayers and specific expenses to victims. An LFC evaluation estimates that if current trends hold, offenders released in FY 2011 will cost taxpayers an estimated \$360 million in corrections costs over the next 15 years. Reducing recidivism by 10% would save millions. Dr. Courtney told the committee that data for the Results First model were provided by the New Mexico Sentencing Commission (NMSC), the Corrections Department (CD) and other agencies.

Dr. Courtney detailed the costs of recidivism. Reducing recidivism by 10% could save \$8.3 million in prison costs and reduce victimization costs by an estimated \$40 million. Since being released in 2008, 1,649 inmates, or 44.6%, returned to prison within three years. On average, these inmates return within 328 days of release. In 2011, the CD released 3,440 inmates from prisons into the community. Within three years of being released, 46% of inmates return to prison, and within five years, 53% return to prison.

Dr. Courtney told the committee that the CD funds eight evidence-based programs with an estimated service level of about 6,700 inmates and a cost of over \$9 million. Dr. Courtney detailed the cost-to-benefit ratio of several correctional programs, some of which are currently

being implemented by the CD and some that are not. According to the CD, 75% of inmates entering the prison system have a history of drug addiction. Historically, the CD operated an evidence-based program called Therapeutic Communities. Because the program was not implemented properly, it performed poorly. The CD has disbanded this program and is implementing another evidence-based in-prison drug treatment program that is estimated to reduce recidivism by about 20% and, if implemented properly, is likely to produce a positive return on investment. The Intensive Supervision program (ISP) is a highly structured, concentrated form of probation and parole supervision with stringent reporting requirements. The ISP alone does not produce a positive return on investment, but when coupled with treatment, it does. The LFC program evaluation on the CD in 2012 recommended that treatment be a condition of the ISP. Legislation passed in 2013 to raise the ISP caseload did not include this requirement.

Dr. Courtney stressed the importance of implementing programs well. Program fidelity is critically important to achieving predicted outcomes. He told the committee that the CD has reorganized staffing to create a research and accountability unit to ensure effective program implementation. The CD has also created a 32-step action plan to improve reentry from prison and programming to reduce recidivism.

Dr. Courtney referred the committee to an LFC program evaluation report of the CD. He told the committee that the CD continues to work on programming issues. The CD is implementing UNM Anderson School of Management recommendations for corrections industries programs. The CD has also expanded the number of beds at the men's recovery academy. The CD has identified all current programming and will receive initial training on the Results First model later in the year. The CD has informed the LFC that the department will receive a refund from OptumHealth to the Community Corrections Grant Fund for unspent FY 2010 and FY 2011 money for approximately \$800,000. FY 2012 expenditures are under review. The CD also created a research and analysis unit. Three staff member will be hired and trained by January 2014.

Dr. Courtney listed some outstanding issues from the CD program evaluation. The CD has not implemented cost-saving measures in response to contract modifications with prisons that include a reduction in required full-time equivalents. Caseloads for probation and parole officers are high compared to nationally recognized best practices, while salaries are low. New Mexico's percentage of private prisons is greater than all of the other states, according to the Federal Bureau of Prisons.

Tony Ortiz, executive director, NMSC, told the committee that the NMSC helps provide data to feed into the Results First model. In January 2012, the LFC contacted the NMSC regarding Results First. The NMSC and UNM's Institute for Social Research (ISR) have decades of experience working with criminal justice issues. Mr. Ortiz told the committee that the Results First model requires tremendous amounts of data. The NMSC has been working to extract data in the best possible format in order to work with the model. Mr. Ortiz told the committee that

the Results First model has gotten off to a good start in New Mexico, and he hopes it will expand to a number of other policy areas.

Members of the committee discussed the importance of state-level data when making decisions. Committee members requested information and data regarding the results of implementing the Cambiar model in 2009. Linda Freeman, deputy director, NMSC, clarified that released inmates who return to prison for a probation violation are not included in the recidivism data. Members of the committee discussed agency involvement, how the Results First model could be applied to other policy areas and the progress of the CD. They also discussed Senate Bill 65, a bill that passed the legislature in 2013 but was vetoed and that would have required inmates to be enrolled in Medicaid prior to their release. Committee members suggested that the Human Services Department be requested to provide an update on its efforts to do this.

Committee members asked questions regarding oversight of OptumHealth. Mr. Sallee informed the committee that OptumHealth is overseen by a collaborative of state agencies, of which the secretary of human services is the chair. Members of the committee asked questions regarding specific CD programs. They also discussed private prisons, women's prisons, juvenile facilities, assessments of programs that are currently funded, specifics regarding police reporting of data and the importance of adapting programs for cultural sensitivity based on New Mexico's diverse population.

#### **New Mexico Adult Detention Professional Standards Local Government Accreditation Program**

Grace Philips, attorney for the New Mexico Association of Counties (NMAC), told the committee that adult detention centers are operated by counties and that there are no statewide rules that require counties to run jails in a particular way. Other states have a similar structure. Several years ago, the NMAC began discussing voluntary standards. In 2009, a committee was developed and began to meet and to draft standards. The Adult Detention Professional Standards Council consists of nine members from the NMAC and various county institutions. National standards from the American Correctional Association (ACA) were considered as well as standards from other states. Accreditation under the ACA costs \$30,000. Council accreditation fees vary depending on institution size, but they do not exceed \$2,500 for the largest facilities. Ms. Philips told the committee that there are 220 standards that must be met for accreditation. She stated that it is a difficult process, but facilities that achieve accreditation adopt best practices and liability issues plummet as a result. She discussed the importance of uniformity across county facilities.

Members of the committee inquired about the costs of jails to counties. Ms. Philips told the committee that county budgets tend to allocate 30% to 40% for jails. Many counties feel they need justification for increasing jail budgets, and this accreditation process gives them that needed justification. Manuel Romero, loss prevention specialist, NMAC, discussed standards for a safe and secure facility, including food service. He emphasized that standards are manageable and realistic, though they are sometimes difficult. He told the committee that standards can be

used as a good guide, even for institutions that are unable to achieve accreditation. Members of the committee asked questions about the differences between the New Mexico Government Accreditation Program's Adult Detention Professional Standards and the ACA standards for accreditation. Ms. Philips told the committee that most of the differences regard physical plant standards. Members of the committee asked about staff training and employee recruitment and retention. Clay Corn, interim administrator at the Chaves County adult and juvenile detention centers, told the committee that these standards help facilities run professionally and securely, which often aids in recruitment and retention. Ms. Philips emphasized the flexibility of these standards. She told the committee that the standards have already been updated as a result of things learned during the accreditation of Chaves County, the first county to be accredited under this program. Members of the committee discussed the incarceration of state prisoners in county jails and the cost to counties for doing so. They also discussed phone access for inmates and best practices for visitors to county facilities.

### **Federal Prison Rape Elimination Act of 2003 — Standards**

Ms. Philips discussed the federal Prison Rape Elimination Act of 2003 (PREA). It is recognized that sexual assaults occur in prisons and jails. Ms. Philips told the committee that the PREA standards are substantial and challenging to comply with, despite their good intention. She told the committee that the law passed in 2003 created a commission to have annual or semiannual studies regarding prison rape. The studies involve questioning and self-reporting regarding sexual misconduct. Some studies also involve interviews with inmates and former inmates and collecting medical records. Ms. Philips told the committee that the most recent reports indicate that 75% of staff misconduct involves female staff and male inmates.

Ms. Philips told the committee that PREA standards are grouped into categories: standards that prevent; standards that detect; and standards that respond. PREA standards address jails, prisons and juvenile detention centers. There are special provisions for gay, lesbian, bisexual and transgender inmates. There are also provisions on data collection and requirements on monitoring contracts. The NMAC has been awarded \$300,000 to fund implementation of the PREA in juvenile facilities. This will involve intensive technical assistance. Ms. Philips told the committee that the NMAC insures most county detention facilities and that sexual misconduct claims are very expensive.

Mr. Romero told the committee that he attended a five-day training in June. The training had around 47 participants. The training was conducted by the National Council on Crime and Delinquency. Participants were tested at the end of the training, and those that passed will be able to certify jurisdictions and facilities for the PREA. He told the committee that time frames set out in the PREA have not been met because the process is so difficult. He told the committee that the estimated cost for a mid-sized facility to meet the PREA standards is \$6,000. This cost could go up if the facility does not meet standards and has to develop a corrective action plan. The PREA includes more than 200 standards. Mr. Romero discussed some challenges to implementing the PREA. Some facilities do not have the right mechanisms to classify inmates.

Steve Allen of the American Civil Liberties Union (ACLU) told the committee that Bernalillo County had to pay three former female inmates last year because they were allegedly forced to have sex with an officer and another inmate. A federal jury last year found that a warden at the women's prison in Grants retaliated against an inmate who reported sexual abuse. A report several years ago listed Tarrant County as having the highest rate of sexual victimization of inmates. Mr. Allen told the committee that the ACLU worked with Senator Rue to introduce Senate Bill 526 in 2013 in order to strengthen auditing requirements in the PREA. Senator Rue told the committee that he made the decision not to pursue the bill because of feedback he received in committee. He expressed a desire to have conversations with various stakeholders and introduce the bill again later.

Members of the committee discussed auditing of PREA standards, the cost of auditing facilities, incidents of sexual misconduct in the state and the implementation of PREA standards in various counties.

### **UNM School of Public Health**

President Robert G. Frank, UNM, told the committee that there are efforts on campus to establish a college of public health. He told the committee that the school would specialize in caring for populations rather than caring for individuals. Populations could be county populations, regional populations or state populations. The school would focus on such issues as preventing obesity and crime. The college would collaborate with New Mexico State University (NMSU) and would have positive effects for the state. New Mexico faces many severe public health challenges. In some parts of the state, residents live without running water. Diabetes and obesity are also prevalent in New Mexico. UNM and NMSU both have public health programs, but a college of public health would be more comprehensive and would move UNM to a higher level of engagement, which, in turn, would bring the state to a higher level of programming. The college would add Ph.D. programs in three areas and add an undergraduate program. New Mexico would benefit from affordable, prepared professionals with bachelor's degrees that could provide public health education to individuals in cities and counties. It will increase the public health work force and provide collaboration across the state. Individuals in the program will learn how to maintain good health and prevent disease for the most expensive disorders for which the state often ends up paying. UNM has reached out to the Navajo Nation and believes that the programming could be very effective there.

Members of the committee discussed the potential for a school of public health. The committee asked questions about funding. Members of the committee discussed a lack of providers throughout New Mexico and various work force issues. Dr. Frank stressed the importance of treating a population in order to prevent treating individuals.

### **Public Comment**

Juliana Koob, on behalf of the Coalition of Sexual Assault Programs, told the committee that the coalition is in favor of Senate Bill 526. She stated that it is crucial for victims to have access to someone who can help them. She told the committee that the coalition wants to work



with the CD through the audit process to figure out where to focus resources and how best to train staff.

Shannon McReynolds, inspector general, CD, told the committee that the CD is working to make victim advocates available when victims are sent to a medical facility.

Jim Brewster, general counsel, CD, told the committee that the CD has some concerns about Senate Bill 526 and would like to meet with the ACLU and Senator Rue to discuss portions of the bill that are inconsistent with the PREA.

### **Recess**

The committee recessed at 4:45 p.m.

### **Tuesday, July 23**

#### **Metropolitan Detention Center (MDC)**

Tom Swisstack, mayor of Rio Rancho and Bernalillo County deputy manager for public safety, welcomed the committee to the MDC. Mr. Swisstack told the committee that Bernalillo County spends more than \$60 million annually on the MDC. The MDC is over capacity, which presents a great challenge for the county. Mr. Swisstack introduced MDC staff, as well as Dr. Paul Guerin, director of the ISR. Mr. Swisstack stressed the importance of restructuring the system to prosecute cases more quickly in order to control the inmate population in county jails. The MDC will transport 468 inmates in and out of state facilities in order to meet bed capacity. It will cost approximately \$6.8 million to do this for one year.

Dr. Guerin told the committee that the ISR has been contracted by Bernalillo County to look at its jail population. Nationally, local jails operate at about 84% of their rated capacity. The MDC is the forty-eighth largest jail in the nation in rated capacity. The MDC is currently at 120.2% capacity. New Mexico detention centers were at 87% of design capacity on June 30, 2011.

Dr. Guerin told the committee that jails in the United States operate under the authority of local or federal governments. Entities such as cities, counties and towns operate jails under local government authority. Jails hold pre-trial detainees, sentenced misdemeanants, some sentenced felons, sentenced felons awaiting transfer to a state facility and probation and parole violators. Jail population is affected by admissions and length of stay. Dr. Guerin told the committee that even though bookings have gone down, the MDC population has increased due to an increase in the length of stay for inmates. Dr. Guerin told the committee that facilities should operate at around 85% of capacity in order to have room to move people around and to account for fluctuations in population. Dr. Guerin told the committee that some criminologists have suggested that probation and parole violators should be dealt with in a way that does not require them to go back to jail. Mr. Swisstack told the committee that Bernalillo County is deferring some other projects in order to pay for the increased jail costs at the MDC.

Members of the committee discussed increased length of stay, MDC capacity and court staffing levels. Ramon Rustin, chief of corrections, MDC, told the committee that other major metropolitan areas are reducing their jail populations. Bernalillo County has budgeted \$74.8 million this year for the MDC. This number includes \$3.4 million for food and at least \$6.5 million to send inmates out of the county. Medical expenses have been budgeted at \$12.2 million. Mr. Rustin discussed many of the challenges facing jails. Thirty-four percent of the MDC population faces mental health issues. Mr. Rustin told the committee that it is important for jail programs to have counterparts in the community. Highly developed programs in the community are cheaper and often reduce recidivism. Mr. Rustin told the committee that the MDC has purchased a Northpoint assessment tool in order to classify and separate individuals.

Members of the committee discussed the MDC population as well as the felon population at the MDC. Virginia Chavez, MDC, told the committee that the community corrections program (CCP), also known as house arrest, costs approximately \$13.00 per day per inmate, while incarceration at the MDC costs approximately \$68.00 per day per inmate. Members of the committee asked questions about the CCP. Committee members also discussed case management and court responsibilities. Members of the committee asked questions about inmates who will be transferred out of state. Mr. Rustin told the committee that those individuals are chosen carefully based on a variety of factors. Members of the committee discussed programs at the MDC, community programs and rehabilitation centers. Committee members also discussed legal expungement methods, court fees and district courts.

### **Change of Agenda**

Representative Chasey informed the committee that due to time restraints, the presentation regarding a need for increased funding for DNA identification systems and an update from the New Mexico DNA Identification System Administrative Center as well as a presentation regarding the budgetary needs of the NMSC will be moved to the August 22-23 meeting. She thanked the presenters for their flexibility.

### **Tour of MDC**

Members of the committee took a tour of the MDC.

### **Adjournment**

There being no further business before the committee, the second meeting of the Courts, Corrections and Justice Committee for the 2013 interim adjourned at 1:00 p.m.